

SERVICE DATE – AUGUST 30, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42072

CAROLINA POWER & LIGHT COMPANY

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Decided: August 30, 2002

In a verified complaint filed and served on defendant Norfolk Southern Railway Company (NS) on February 1, 2002, Carolina Power & Light Company (CP&L) challenges the reasonableness of rates and other terms for unit train coal transportation service by NS from various origins in West Virginia, Kentucky, and Virginia to CP&L's Roxboro electricity generating facility in Hyco, NC, and Mayo electricity generating facility in Mayo Creek, NC.<sup>1</sup> CP&L alleges that NS possesses market dominance over the traffic and requests that maximum reasonable rates be prescribed along with other relief, including reparations.

In a decision served on March 12, 2002, granting a joint motion for a protective order, the Board established a procedural schedule. The Board, upon a request by CP&L made with the knowledge and consent of NS, extended the deadlines by one week in a decision served on May 30, 2002. Under the revised schedule, opening statements were due to the Board on June 10, 2002, reply evidence on September 6, 2002, and rebuttal evidence on October 7, 2002. The parties filed their opening statements with the Board on June 10, 2002. By letter filed on August 29, 2002, the parties jointly request that the deadlines for submission of reply and rebuttal evidence be amended as follows: reply evidence due to the Board on October 11, 2002, and rebuttal evidence on November 27, 2002. The parties state that additional time is needed to complete discovery in response to the Board's decision of August 26, 2002, disposing of pending procedural matters. The request is reasonable. Accordingly, the extension request will be granted.

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<sup>1</sup> The service was provided by NS under a rail transportation contract that expired on March 31, 2002. As of April 1, 2002, common carrier rates and service terms replaced the expired contract rates, as outlined in a January 29, 2002 letter from NS to CP&L.

It is ordered:

1. The parties' joint motion to modify the procedural schedule, as established in the May 30, 2002 decision, is granted.
2. The procedural schedule in this proceeding is amended to the following:

October 11, 2002	Reply evidence due.
November 27, 2002	Rebuttal evidence due.
3. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary